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November 20, 2001

BY ELECTRONIC DELIVERY

EX-PARTE LETTER

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street S.W., Room TWB204
Washington, DC 20024

Re: Petition of the State of Alaska for Waiver for the Utilization of Schools and Libraries Internet Point-of-Presence in Rural Remote Alaska Villages Where No Local Access Exists and Request for Declaratory Ruling

In the Matter of Federal-State Joint Board on Universal Service,
CC Docket No. 96-45

Dear Ms. Salas:

On behalf of the State of Alaska, this letter is being filed electronically, in accordance with the Commission's Rules, to report a telephone conversation I had yesterday, November 19, 2001, with Ellen Blackler of the Common Carrier Bureau. Two copies will be delivered by a delivery service as well. The substance of that conversation is set forth below.

As you know, the State is seeking a waiver of a Commission rule to permit community use during non-school hours of the E-rate supported telecommunications service or facility used by local schools to access the Internet. The State has taken the position that the number of ISPs to be given access to this resource is a matter that should be left to local school districts to determine. If more potential ISPs seek access to this resource than can be accommodated for any reason, the school district would engage in a competitive bid or proposal process to determine which local ISP(s) should be selected employing criteria aimed at

determining which ISP(s) would offer the best value to community members. In this manner, the benefits of competition would be received directly by consumers through the lowest possible prices or the quality of service being offered. The State continues to believe that this process complies with all statutory requirements and maximizes the public interest.

The State understands, however, that questions have been raised about the appropriateness of using a competitive bid or proposal process to choose among multiple possible ISPs where necessary or appropriate in the view of the local school district. The State wishes to resolve this issue as quickly as possible so that its communities that lack any local or toll-free access to the Internet can receive that service, at least on a part-time basis, as quickly as possible. Moreover, the State believes that the situation of more potential ISPs than can be accommodated is not likely to arise in the vast majority of affected communities. After all, no ISP has offered Internet access service to date in any of the affected communities.

Solely in order to resolve the issue, the State can accept the following approach to resolving situations in which there are more interested local ISPs than can technically be accommodated by the school:

The local school districts should offer access to the school's telecommunications service or facility on a nondiscriminatory basis to as many qualified ISPs as technically possible. The decision of how many ISPs may technically be accommodated in a given community is within the discretion of the local school district. The school districts should set the minimum technical criteria that the ISPs will be required to satisfy and a schedule or deadline for commencement of the ISP service. The school districts should then set a relatively prompt deadline for each interested ISP to submit information demonstrating its compliance with and ability to implement a solution satisfying the technical criteria and to do so within the required schedule or deadline. If, in the discretion of the local school board, more ISPs timely submit proposals demonstrating compliance with and the ability to meet the technical requirements and the schedule or deadline than can be accommodated for technical reasons, the school district shall conduct a random selection process to choose among those qualified ISPs.

Use of the telecommunications service or facility at issue should not be distributed on a "first-come, first-serve" basis. Given the small and remote nature of most of these communities, such an approach runs a significant risk of being unfair and exclusionary. A particular entity may be first in line for reasons having nothing to do with the attractiveness of its service in the marketplace. Some

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entities may be foreclosed from expressing an interest in becoming a local ISP because of short delays in receiving or submitting information, which is increasingly likely in the winter months. Setting a short period of time for demonstrations of technical capability and timeliness, as set forth above, is, in the State's view, far more likely to result in one or more successful ISP operation(s) than a "first-come, first serve" process.

In the event there are any questions concerning this notice, please communicate with the undersigned.

Very truly yours,

Robert M. Halperin
Counsel for the State of Alaska

cc: Ellen Blackler